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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.23 OF 1990

The Commissioner of Income-tax...Applicant

Vs.

M/s.Polychem Ltd. ..Respondents

Mr. A.S. Rao for the Applicant
Mr. S.I. Mehta, for the respondetns.

CORAM: F.I. REBELLO &
J.P.DEVADHAR,JJ.
DATED: 29TH AUGUST, 2007

P.C.:

. The following three questions were referred by the Tribunal:-

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the possibility of exploitation of scientific formula received from Shri Ram Institute is itself a research u/s.35 of the I.T.Act?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee is entitled to relief u/s.35 of the I.T,. Act and in respect of the expenditure incurred for the formula and process developed by

Shri Ram Institute while the assessee incurred expenditure on pilot plant for technical and financial viability of producing final product?

4. Whether, on the facts and in the circumstances of the case, the tribunal was right in law in holding that water shortage ponds are 'plant' and entitled to depreciation, extra shift allowance and development rebate under the provisions of the I.T. Act, 1961?"

At the hearing of this reference on behalf of the respondent learned Counsel points out that the case decided by this Court on 14th August, 1997 in ITR No.419 of 1983 question No.2 in that judgment would cover questions 1 and 2. On behalf of Applicant the same is not disputed.

. In so far as question No.4 is concerned, it is then contended that the same is covered by the judgment of this Court in 217 ITR 622 (Bom.) and 207 ITR 494 (Bom.). Learned Counsel for the Applicant does not dispute the same.

2. Considering the above reference answered in favour of the assessee and against the revenue.

(J.P. DEVADHAR, J.) **(F.I. REBELLO, J.)**